

**Assembly Bill No. 1173**

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Passed the Assembly September 11, 2009

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*Chief Clerk of the Assembly*

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Passed the Senate September 10, 2009

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*Secretary of the Senate*

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This bill was received by the Governor this \_\_\_\_\_ day  
of \_\_\_\_\_, 2009, at \_\_\_\_\_ o'clock \_\_\_\_M.

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*Private Secretary of the Governor*

## CHAPTER \_\_\_\_\_

An act to amend Section 25210.9 of the Health and Safety Code, and to add Chapter 7.3 (commencing with Section 42420) to Part 3 of Division 30 of the Public Resources Code, relating to hazardous materials.

## LEGISLATIVE COUNSEL'S DIGEST

AB 1173, Huffman. Hazardous materials: fluorescent lamps: recycling.

The California Lighting Efficiency and Toxics Reduction Act prohibits, on and after January 1, 2010, except for certain specified circumstances, a person from manufacturing, selling, or offering for sale in the state specified general purpose lights that contain levels of hazardous substances prohibited by the European Union pursuant to the RoHS Directive, as specified.

This bill, on and after January 1, 2011, would prohibit the sale or offering for sale in this state of luminaires and lighting fixtures that are intended for general lighting purposes and contain preheat ballasts for operation of preheat linear fluorescent lamps.

The California Integrated Waste Management Act of 1989, administered by the California Integrated Waste Management Board, requires reduction, recycling, and reuse of solid waste generated in the state to the maximum extent feasible in an efficient, cost-effective manner to conserve water, energy, and other natural resources.

This bill would prohibit the distribution of moneys from energy efficiency investment funds or any other funds generated from usage-based charges on electricity distribution that are provided by California's retail sellers of electricity to any manufacturer for the purchase and distribution of compact fluorescent lamps, unless the compact fluorescent lamps meet certain specifications, and the manufacturer of the compact fluorescent lamps, individually, collectively with other manufacturers, or through a stewardship organization, has implemented a residential fluorescent lamp recycling program for each residential fluorescent lamp, as defined, sold by retailers selling the manufacturer's subsidized lamps. The bill would prohibit the distribution of moneys from funds generated

from usage-based charges on electricity distribution that are provided by California's retail sellers of electricity to a retailer, except moneys provided to a retailer through a manufacturer, unless the retailer has agreed to provide the public an in-store collection opportunity for the recycling of residential fluorescent lamps. The bill would prohibit manufacturers and retailers from using funds generated from usage-based charges on electricity distribution that are provided by California's retail sellers of electricity for recycling activities.

The bill would require the manufacturers of residential fluorescent lamps sold in this state, individually, collectively with other manufacturers, or through a stewardship organization, to establish and maintain a residential fluorescent lamp recycling program containing specified elements within 90 days of receiving the funds generated from usage-based charges. The bill would require a manufacturer, individually, collectively with other manufacturers, or through a stewardship organization, to submit an annual report on the implementation of the residential fluorescent lamp recycling program. The bill would require the board to establish an administrative fee, not to exceed \$5,000 per manufacturer and bearing a reasonable relationship to actual costs, to be paid by the manufacturers to cover the cost of reviewing and approving the annual report and of oversight and enforcement of the program.

*The people of the State of California do enact as follows:*

SECTION 1. This act shall be known, and may be cited, as the California Fluorescent Lamp Toxics Reduction and Recycling Act.

SEC. 2. (a) The Legislature finds and declares all of the following:

(1) California policy, including the California Lighting Efficiency and Toxics Reduction Act (Chapter 534 of the Statutes of 2007), has put California on a path of transition from incandescent lamps to more energy-efficient lighting, including substantially increased utilization of fluorescent lighting.

(2) Many existing lighting choices contain toxic materials. Most fluorescent lighting products contain mercury. California prohibits disposing of lighting products containing hazardous levels of metal in the solid waste stream. The hazardous material in waste lighting

products can be reduced and managed through recycling, but recycling opportunities are currently inconvenient or nonexistent for most consumers.

(3) Fluorescent lighting products delivering the same level of light at the same level of efficiency can have varying levels of mercury. The Department of General Services has adopted a procurement preference favoring low-mercury fluorescent lamps.

(4) In 2007, the Legislature enacted the California Lighting Efficiency and Toxics Reduction Act (Chapter 534 of the Statutes of 2007), which directed the Department of Toxic Substances Control (DTSC) to convene a lighting task force to consider and make policy recommendations to the Legislature for designing a statewide collection program for end-of-life fluorescent lights. On September 1, 2008, the task force submitted recommendations to the Legislature on the need and options for a convenient statewide system for the collection and recycling of fluorescent lamps for residential generators.

(b) It is the intent of the Legislature to have an established system for the recycling of residential generated fluorescent lamps that is free and convenient for end users.

SEC. 3. Section 25210.9 of the Health and Safety Code is amended to read:

25210.9. (a) Except as provided in subdivisions (e), (f), and (g), on and after January 1, 2010, a person shall not manufacture general purpose lights for sale in this state that contain levels of hazardous substances that would result in the prohibition of those general purpose lights being sold or offered for sale in the European Union pursuant to the RoHS Directive.

(b) Except as provided in subdivisions (e), (f), and (g), on and after January 1, 2010, a person shall not sell or offer for sale in this state a general purpose light under any of the following circumstances:

(1) The general purpose light being sold or offered for sale was manufactured on and after January 1, 2010, and contains levels of hazardous substances that would result in the prohibition of that general purpose light being sold or offered for sale in the European Union pursuant to the RoHS Directive.

(2) The manufacturer of the general purpose light sold or being offered for sale fails to provide the documentation to the department required by subdivision (h).

(3) The manufacturer of the general purpose light being sold or offered for sale does not provide the certification required in subdivision (i).

(c) For the purposes of this section, “RoHS Directive” means Directive 2002/95/EC, adopted by the European Parliament and the Council of the European Union on January 27, 2003, on the restriction of certain hazardous substances in electrical and electronic equipment, as amended thereafter by the Commission of European Communities (13.2.2003 Official Journal of the European Union).

(d) The department shall determine the products covered by the RoHS Directive by reference to authoritative guidance published by the United Kingdom implementing the RoHS Directive in that country.

(e) (1) Except as provided in paragraphs (2) and (3), subdivisions (a), (b), (h), and (i) do not apply to high output and very high output linear fluorescent lamps greater than 32 millimeters in diameter and preheat linear fluorescent lamps.

(2) On or after January 1, 2014, the department shall determine, in consultation with companies that manufacture lamps specified in paragraph (1) in the United States, if those lamps should be subject to the requirements of subdivisions (a), (b), (h), and (i), taking into consideration changes in lamp design or manufacturing technology that will allow for the removal or reduction of mercury.

(3) On and after January 1, 2011, new luminaires and lighting fixtures intended for general lighting purposes and containing preheat ballasts for operation of preheat linear florescent lamps shall not be sold or offered for sale in this state.

(f) On and after January 1, 2012, for high intensity discharge lamps and compact fluorescent lamps greater than nine inches in length, subdivisions (a), (b), (h), and (i) shall be applicable.

(g) On and after January 1, 2014, for state-regulated general service incandescent lamps and enhanced spectrum lamps as defined in subdivision (k) of Section 1602 of Title 20 of the California Code of Regulations, subdivisions (a), (b), (h), and (i) shall be applicable.

(h) A manufacturer of general purpose lights sold or being offered for sale in California shall prepare and, at the request of the department, submit within 28 days of the date of the request, technical documentation or other information showing that the

manufacturer's general purpose lights sold or offered for sale in this state comply with the requirements of the RoHS Directive.

(i) A manufacturer of general purpose lights sold or being offered for sale in California shall provide, upon request, a certification to a person who sells or offers for sale that manufacturer's general purpose lights. The certification shall attest that the general purpose lights do not contain levels of hazardous substances that would result in the prohibition of those general purpose lights being sold or offered for sale in California. Alternatively, the manufacturer may display the certification required by this subdivision prominently on the shipping container or on the packaging of general purpose lights.

(j) The department may adopt regulations to implement and administer this article.

SEC. 4. Chapter 7.3 (commencing with Section 42420) is added to Part 3 of Division 30 of the Public Resources Code, to read:

#### CHAPTER 7.3. FLUORESCENT LAMPS

42420. For the purposes of this chapter, the following terms have the following meanings:

(a) "Board" means the California Integrated Waste Management Board.

(b) "Consumer" means a purchaser or owner of residential fluorescent lamps, excluding a business, corporation, limited partnership, nonprofit organization, or governmental entity.

(c) "Manufacturer" means any person who, on or after the effective date of this act, and regardless of the selling technique used, including by means of remote sale, does one or more of the following:

(1) Manufactures fluorescent lamps under its own brand for sale in this state.

(2) Manufactures fluorescent lamps for sale in this state without affixing a brand.

(3) Resells in this state fluorescent lamps produced by other suppliers under its own brand or label.

(4) Imports or exports fluorescent lamps into the United States that are sold in this state. If a company from which an importer purchases the merchandise has a United States presence, assets,

or both, that company, and not the importer, shall be deemed to be the manufacturer.

(d) “Residential fluorescent lamps” means compact fluorescent lamps and any other fluorescent lamp intended for residential use.

(e) “Residential fluorescent lamp recycling program” means a system for the collection, transportation, recycling, and proper disposal of fluorescent lamps that is financed, as well as managed or provided, by a manufacturer receiving funds pursuant to the program described in Section 42421, individually, collectively with other manufacturers, or through a stewardship organization.

(f) “Retailer” means a person that sells subsidized fluorescent lamps intended for residential use in the state to a consumer. A sale includes, but is not limited to, transactions conducted through sales outlets, catalogs, or the Internet or any other similar electronic means.

(g) “Stewardship organization” means an organization that implements and administers the residential fluorescent lamp recycling program.

42421. (a) (1) Moneys from funds generated from usage-based charges on electricity distribution, including, but not limited to, energy efficiency investment funds, that are provided by California’s electrical corporations and local publicly owned electric utilities, as defined in Sections 218 and 224.3 of the Public Utilities Code, respectively, shall not be distributed to any manufacturer for the purchase and distribution of compact fluorescent lamps, unless all of the following conditions exist:

(A) All compact fluorescent lamps purchased are qualified as the most recent ENERGY STAR version listed on the ENERGY STAR Internet Web site, and contain no more mercury than the amount referenced in the most recent ENERGY STAR version, or four milligrams of mercury for any basic lamp of up to 25 watts, whichever is less.

(B) The manufacturer, individually, collectively with other manufacturers, or through a stewardship organization, establishes and maintains a comprehensive residential fluorescent lamp recycling program for all residential lamps sold by retailers selling the manufacturer’s subsidized lamps, to manage end-of-life residential fluorescent lamps in an environmentally sound fashion, including collection, transportation, recycling, and proper disposal.

Collection of end-of-life residential fluorescent lamps may occur through a variety of collection methodologies and locations.

(C) Packaging for the subsidized compact fluorescent lamps sold in this state shall have a label informing consumers that disposing of fluorescent lamps in the solid waste stream is prohibited and providing access to information on opportunities for proper recycling.

(2) The manufacturer, individually, collectively with other manufacturers, or through a stewardship organization, may contract with a retailer for in-store or out-of-store collection of end-of-life residential fluorescent lamps.

(b) Moneys from funds generated from usage-based charges on electricity distribution, including, but not limited to, energy efficiency investment funds that are provided by California's electrical corporations and local publicly owned electric utilities, as defined in Sections 218 and 224.3 of the Public Utilities Code, respectively, shall not be distributed from a utility directly to a retailer for a residential fluorescent lamp program, unless the retailer has agreed to provide the public with a convenient in-store collection opportunity for the recycling of residential fluorescent lamps. This requirement shall not apply to those moneys provided to a retailer through a manufacturer.

(c) Moneys from funds generated from usage-based charges on electricity distribution, including, but not limited to, energy efficiency investment funds, that are provided by California's electrical corporations and local publicly owned electric utilities, as defined in Sections 218 and 224.3 of the Public Utilities Code, respectively, shall not be used to fund manufacturer or retailer recycling activities required under this chapter.

42422. (a) To meet the requirement of subparagraph (B) of paragraph (1) of subdivision (a) of Section 42421, a manufacturer of residential fluorescent lamps sold in this state shall individually, collectively with other manufacturers, or through a stewardship organization, establish and maintain a residential fluorescent lamp recycling program, as defined in subdivision (e) of Section 42420, in accordance with this section within 90 days of receiving funds generated from usage-based charges on electricity distribution.

(b) The program shall demonstrate sufficient funding.

(c) The program shall be free and convenient to all consumers.



(d) The program shall include education and outreach efforts to promote the proper management of end-of-life fluorescent lamps. Education and outreach efforts may include, but are not limited to, any of the following:

(1) Developing and updating as necessary, educational and other outreach materials aimed at retailers of residential fluorescent lamps. Those materials shall be made available to the retailers. The materials may include, but are not limited to, one or more of the following:

(A) Signage that is prominently displayed and easily visible to the consumer.

(B) Written materials and templates of materials for reproduction by retailers to be provided to the consumer at the time of purchase or delivery, or both. Written materials shall include information on the prohibition of improper disposal of residential fluorescent lamps and recycling opportunities.

(C) Advertising or other promotional materials, or both, that include references to residential fluorescent lamp recycling opportunities.

(2) Strategizing with retail sellers of electricity to encourage their participation in the collection and proper management of end-of-life fluorescent lamps. These strategies may include the inclusion of an educational insert in their customers' utility bills.

(3) Encourage in-store collection by retailers and other outlets.

(e) Within one year of implementing a residential fluorescent lamp recycling program, and annually thereafter, a manufacturer of residential fluorescent lamps, individually, collectively with other manufacturers, or through a stewardship organization, shall submit an annual report to the board describing its residential fluorescent lamp recovery efforts. The report shall be posted on the manufacturer's Internet Web site. The annual report shall include all of the following:

(1) A list of all manufacturers participating in the program.

(2) The total number of end-of-life fluorescent lamps collected in California during the previous year under the residential fluorescent lamp recycling program implemented by that manufacturer.

(3) A complete listing of all participating collection sites.

(4) A description of the methods used to collect, transport, recycle, and dispose of end-of-life fluorescent lamps.

(5) A description of the outreach strategies employed to increase participation and collection rates.

(6) Examples of the outreach and educational materials used.

(7) The total cost of implementing the residential fluorescent lamp recycling program by the following categories:

(A) Outreach and education.

(B) Administration.

(C) Collection, transportation, recycling, and disposal.

42423. (a) The board shall review the annual report required pursuant to Section 42422 and within 90 days of receipt shall adopt a finding of compliance or noncompliance with the provisions of this act.

(b) Prior to adopting a finding of compliance or noncompliance, the board shall notify manufacturers that it believes are not in compliance with the conditions set forth in paragraph (1) of subdivision (a) of Section 42421 and provide the manufacturer with an opportunity to cure its noncompliance within 30 days or a meaningful opportunity to be heard as to why it believes the finding of noncompliance is in error. If the manufacturer does not persuade the board that it is in compliance after this process, the board shall post on its Internet Web site a notice listing manufacturers that are not in compliance.

(c) Manufacturers that have been listed pursuant to subdivision (b), but can demonstrate to the satisfaction of the board that they are in compliance with the conditions set forth in paragraph (1) of subdivision (a) of Section 42421, may request a certification letter from the board to that effect. The letter shall constitute compliance with those conditions.

(d) The board shall enforce this chapter.

(e) The board shall establish administrative fees to be paid by manufacturers receiving funds pursuant to the program described in Section 42421 to cover the cost of reviewing and approving the annual report and the cost of oversight and enforcement of the residential fluorescent lamp recycling program. The fee shall not exceed five thousand dollars (\$5,000) per manufacturer and shall bear a reasonable relationship to actual costs.











Approved \_\_\_\_\_, 2009

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*Governor*